

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1377-MN-JLH

MASIMO CORPORATION,

Counter-Claimant,

v.

APPLE INC.

Counter-Defendant.

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1378-MN-JLH

MASIMO CORPORATION and
CERCACOR LABORATORIES, INC.,

Counter-Claimants,

v.

APPLE INC.

Counter-Defendant.

**MOTION FOR CONFERENCE TO
RESOLVE DISCOVERY DISPUTES**

Pursuant to Paragraph 8(g) of the Scheduling Order (D.I. 103, C.A. No. 22-1377; D.I. 92, C.A. No. 22-1378), Defendant Masimo Corporation, Defendant Sound United, LLC, and Counterclaimant Cercacor Laboratories, Inc., (collectively, “Masimo”) respectfully move to schedule a conference to address outstanding disputes regarding the following discovery issues:

- Whether Apple may withhold search term hits that it determines are not responsive to a request for production;
 - Whether Apple must provide or log all of Jeffrey Myers’s custodial emails that hit on Masimo’s search terms; and
 - Whether Apple must provide emails that hit on Masimo’s proposed search term
- 5.

The following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in a verbal meet-and-confer by telephone on July 19, 2023, August 1, 2023, and August 25, 2023.

Delaware Counsel:

For Masimo: John C. Phillips, Jr., Megan C. Haney

For Apple: David E. Moore

Lead Counsel:

For Masimo: Jared Bunker, Kendall Loebbaka

For Apple: Jeffrey Seddon (on July 19, 2023, August 1, 2023, and August 25, 2023), Jordan Malz and Mark Ford (on July 19, 2023 and August 1, 2023), Jennifer Milici (on August 25, 2023) and Peter Magic (on July 19, 2023).

Masimo is available for a conference on September 12, 14, and 15, 2023. Masimo attempted to reach agreement with Apple regarding the contents of this Motion, but was unable to do so. Masimo is therefore filing this request separately. Masimo notes, however, that regarding related discovery issues, Apple told Masimo it was available for a teleconference on these same dates.

PHILLIPS MCLAUGHLIN & HALL, P.A.

/s/ John C. Phillips, Jr.

John C. Phillips, Jr. (#110)

Megan C. Haney (#5016)

1200 North Broom Street

Wilmington, Delaware 19806

(302) 655-4200

jcp@pmhdelaw.com

mch@pmhdelaw.com

Attorneys for Defendants